

Title: Impact Assessment for The Port of Portland, Port of Grangemouth, Port of Workington, Port of Milford Haven, Port of Liverpool, Port of Tees and Hartlepool and Port of Aberdeen Designation Orders 2012 IA No: DfT00137 Lead department or agency: Department for Transport Other departments or agencies:	Impact Assessment (IA)			
	Date:			
	Stage: Consultation			
	Source of intervention: EU			
	Type of measure: Secondary legislation			
Contact for enquiries: Tony L Smith - 0207 944 5875 tonyl.smith@df.gov.uk				
Summary: Intervention and Options			RPC Opinion: RPC Opinion Status	

Cost of Preferred (or more likely) Option				
Total Net Present Value	Business Net Present Value	Net cost to business per year (EANCB on 2009 prices)	In scope of One-In, One-Out?	Measure qualifies as
£-1.33m	£-1.33m	£0.154m	No	NA

What is the problem under consideration? Why is government intervention necessary?

The terrorist incidents in the US (2001), Madrid (2004) and London (2005) highlighted the vulnerability of, and threat to, transport systems world-wide. The UK port industry is an important part of the UK economy, and essential node between transportation modes. Therefore a security incident involving the maritime transport system may have impacts falling beyond the immediate risks and consequences faced by port owners, such as the cost of human injury. As such effects are unlikely to be faced directly by port owners they may under invest in security measures. Government intervention by way of Directive 2005/65/EC is therefore required to ensure a consistent and proportionate port security regime across the UK.

What are the policy objectives and the intended effects?

The policy objective is to enhance security at the Port of Portland, Port of Grangemouth, Port of Workington, Port of Milford Haven, Port of Liverpool, Port of Tees and Hartlepool and Port of Aberdeen (the Listed Ports) to complement measures to help prevent maritime terrorist incidents. The intended effect is to designate a Security Authority for each of the Listed Ports, which will be responsible for the preparation and implementation of security plans, based on the findings of security assessments at each of the Listed Ports and for co-ordinating security within each of those ports for which that Security Authority is designated.

What policy options have been considered, including any alternatives to regulation? Please justify preferred option (further details in Evidence Base)

Option 1. Do nothing

Option 2. Introduce Statutory Instruments (one for each of the listed ports) defining boundaries for each of the Listed Ports designating the 'Port of (Listed Port) Security Authority' as the Port Security Authority for the Port of (Listed Port), for the purposes of Directive 2005/65/EC as transposed by the Port Security Regulations 2009.

Option 2 is the preferred option as it implements the Directive 2005/65/EC at the Listed Ports, which will result in the Listed Ports having a security regime consistent with measures identified to remove the existing vulnerability of port security to terrorist incidents. This will contribute to reducing the UK's vulnerability to maritime terrorist incidents – with the Listed Ports being a number of a series of ports introducing an enhanced security regime. Please see evidence base, page 4. for option development.

Will the policy be reviewed? It will be reviewed. If applicable, set review date: 12/2013					
Does implementation go beyond minimum EU requirements?			No		
Are any of these organisations in scope? If Micros not exempted set out reason in Evidence Base.	Micro Yes	< 20 Yes	Small Yes	Medium Yes	Large Yes
What is the CO ₂ equivalent change in greenhouse gas emissions? (Million tonnes CO ₂ equivalent)			Traded: N/A	Non-traded: N/A	

I have read the Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options.

Signed by the responsible SELECT SIGNATORY: _____ Date: _____

Summary: Analysis & Evidence

Policy Option 2

Description: Introduce Statutory Instruments for each of the Listed Ports

FULL ECONOMIC ASSESSMENT

Price Base Year 2011	PV Base Year 2011	Time Period Years 10	Net Benefit (Present Value (PV)) (£m)		
			Low: Optional	High: Optional	Best Estimate: -1.33

COSTS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	Optional	Optional	Optional
High	Optional	Optional	Optional
Best Estimate	0.17	0.135	1.33

Description and scale of monetised costs by 'main affected groups'

Summing the costs for all ports:

Port Security Officer estimated to cost £175,560 in the start-up year and £87,780 per annum thereafter.

Port Security Risk Assessment estimated cost £123,021 in the 1st year and £43,902 per annum thereafter.

Port Security Plan estimated to cost £8,440 in the 1st year and £3,376 per annum thereafter.

The extra costs of £171,963 in the 1st year have been presented as transition costs.

Other key non-monetised costs by 'main affected groups'

BENEFITS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low	Optional	Optional	Optional
High	Optional	Optional	Optional
Best Estimate	N/A	N/A	N/A

Description and scale of key monetised benefits by 'main affected groups'

There are no key monetised benefits

Other key non-monetised benefits by 'main affected groups'

Improved security measures will reduce the chances of successful maritime terrorist incidents – bringing benefits of a prevented terrorist incident such as saved human injuries and no disruption of the movement of goods and people that could have a material impact on the UK economy. These measures will also lead to better co-ordination and support between various security institutions such as the police and the government by combining existing activities into a single regime.

Key assumptions/sensitivities/risks

Discount rate (%) 3.5

The figures for the Listed Ports are based on the Department's evaluation of cost information supplied by UK ports, including a number of the Listed Ports. For a breakdown of costs per Listed Port, please see Summary table of Costs in Evidence Base and Annexes A - G.

BUSINESS ASSESSMENT (Option 1)

Direct impact on business (Equivalent Annual) £m:			In scope of OIOO?	Measure qualifies as
Costs: -0.154	Benefits: 0	Net: -0.154	No	NA

Evidence Base (for summary sheets)

1. Title of Proposal

1.1 The Port Security (Port of Portland, Port of Grangemouth, Port of Workington, Port of Milford Haven, Port of Liverpool, Port of Tees and Hartlepool and Port of Aberdeen) Designation Orders 2012

2. Purpose and intended effect of measure

2.1 The Port Security (Port of Portland, Port of Grangemouth, Port of Workington, Port of Milford Haven, Port of Liverpool, Port of Tees and Hartlepool and Port of Aberdeen (hereafter referred to as 'Listed Ports')) Designation Orders 2012 aim to introduce a set of measures to enhance security at the Listed Ports which will contribute towards an improvement in the level of port security in the UK to prevent terrorist incidents. The orders will designate a Security Authority for each of the Listed Ports which will be responsible for the preparation and implementation of security plans based on the findings of security assessments at each of the Listed Ports, along with co-ordinating security within the Listed Port for which that Port Security Authority is designated.

3. Background

3.1 The terrorist incidents in the US (2001), Madrid (2004) and London (2005) highlighted both the vulnerability of, and threat to, transport systems world-wide.

3.2 The International Maritime Organisation (IMO) responded by developing new security requirements for ships and port facilities to counter the threat of acts of terrorism. These requirements are set out in amendments to the Convention on the Safety of Life at Sea 1974 (SOLAS) and an International Ship and Port Facility Security Code (ISPS Code). The SOLAS amendments and the ISPS Code were formally adopted by contracting governments in December 2002 and came into force on 1 July 2004. The measures related principally to ships and the interface between ships and ports but not wider port activity as this was not within the jurisdiction of the IMO.

3.3 At European level, the Council and European Parliament adopted Regulation (EC) 725/2004 on enhancing ship and port facility security (the "EC Regulation") which provided the legal basis for the implementation of the IMO (ISPS Code) requirements in all EU Member States. They also examined the parallel issue of wider port security (which was beyond the IMO jurisdiction) and this led to Directive 2005/65/EC on enhancing Port Security.

Rationale for government intervention:

3.4 In the UK 95% by volume and 77% by value of international trade is carried in ships and 7% of domestic freight tonnage moves by water. In addition, 15% of UK international passenger movements are by sea and two thirds of passenger vehicles between the UK and other countries go by sea. This makes the UK port industry an important part of the UK economy, as well as an essential node between other modes of transportation. A serious security incident involving the maritime transport system could therefore have impacts that fall beyond the immediate risks and consequences faced by port owners.

3.5 Such wider impacts could include considerable reduction in the ability to move goods and people that could have a material impact on the UK economy and / or wider social impacts such as the cost of human injury. As such effects are unlikely to be faced directly by port owners they may under invest in security measures and thus government intervention is justified to ensure that consistent and proportionate port security measures are in place across the UK.

Port Security Directive and Regulation:

3.6 The consultation¹ on The Ship and Port Facility (security) Regulations 2004 and the Ship and Port Facility (security) (amendment) Regulations 2005 provides background to the development of

¹ <http://webarchive.nationalarchives.gov.uk/+/http://www.dft.gov.uk/consultations/archive/2004/regfsf/consultationpaper.doc>

Regulation (EC) 725/2004 and the consultation² on The Port Security Regulations 2008, on the Directive 2005/65/EC.

3.7 Six options were identified for implementing the EC Directive in the UK. All but option 1 entailed introducing secondary legislation to designate port boundaries, appoint port security authorities and port security officers, and establish port security assessments and port security plans. Legislation would also create compliance offences for industry and criminal offences to support port security. The options were as follows:

Option 1. Do nothing and therefore do not implement the Directive: Continue with AMSA 1990 and EC Regulation security regimes.

Option 2. Implement a centralised regime, where the PSA is the Secretary of State, separate from the industry; a single PSP is developed for the entire UK port industry covering baseline measures and response, which would have to be adopted by all ports.

Option 3. Implement a Regionalised regime, establishing 12-15 centrally funded PSAs with Statutory powers, but separate from the industry.

Option 4. Implement a localised regime, with around 150 designated "ports" and each with its own PSA made up of industry representatives, based upon recognisable port or estuary areas, or other identifiable structures such as Police force areas, MCA areas, Geographical boundaries or Unitary Authorities.

Option 5. Build on existing measures – with significant ports being designated in their own right and with a number of strategic PSAs covering other port areas (originally estimated 100 PSAs in total but now estimated to be up to around 40). Existing lead PFSOs are likely to become PSOs, and existing security/response port facility plans become a part of an overall port security plan.

Option 6. 'Direct carry over' of existing measures; all facilities to which the International and Ship and Port Security regulations (ISPS) apply (400 approx) are regarded as a 'port' in their own right and have their own PSA, with their existing ISPS port facility plans becoming port security plans.

3.8 A public consultation³ on these six options was held in 2008. Following responses it was decided that option 5 was the best way to implement The European Directive, which was then transposed into UK law by the Port Security Regulations 2009. Option 5 was chosen as it minimised the bureaucratic and administration changes required to achieve the level of port security required to help prevent terrorist incidents by building on existing security measures that had already been put in place.

Implementing Port Security Regulations 2009:

3.9 The Port Security Regulations 2009 were made under powers contained in section 2(2) of the European Communities Act 1972, to transpose the port security measures in Directive 2005/65/EC which have general application across all UK ports. It was not considered practicable to include in the Port Security Regulations the provisions required to apply those general measures at every relevant port in the UK. The provisions in question relate to the delineation of the boundaries of each port and the designation of a port security authority for each port. To attempt to include these specific provisions for all the relevant ports in the Regulations themselves would have resulted in an impracticably long instrument containing numerous schedules of maps.

3.10 The possibility of including in the Port Security Regulations a power for the Secretary of State to at a later stage delineate the boundaries of each port, and to designate a port security authority for each port was considered. This option was rejected however because it was considered that this would constitute unlawful legislative sub-delegation to the Secretary of State. Under Schedule 2 paragraph 1(1)(c) of the European Communities Act 1972 it is unlawful to include in an instrument made under section 2(2) of the Act a provision that sub-delegates power to legislate to another individual or body (A power to give directions as to administrative matters is not regarded as a power to legislate. However, on the basis that the delineation of port boundaries and the designation of port security authorities would give rise to legal effects it was considered that these would be regarded as legislative rather than administrative acts).

3.11 The identification of the port boundary in the Designation Orders for each of the Listed Ports takes into account information resulting from the port security assessment undertaken by the

² <http://webarchive.nationalarchives.gov.uk/+/http://www.dft.gov.uk/consultations/archive/2008/portsecurityregulations/consultationdoc>

³ <http://webarchive.nationalarchives.gov.uk/+/http://www.dft.gov.uk/consultations/archive/2008/portsecurityregulations/consultationdoc>

Department for Transport in accordance with Annex I of the EU Directive, and discussions with each Listed Port and will take into account any views expressed by other stakeholders during the consultation process. The boundary embraces the port facilities situated within the port, and the port areas that could have an impact on the security of the port. After this Order has come into force, and has designated each of Port Security Authorities for each of the Listed Ports, each Port Security Authority is required to complete their own port security assessment at the port for which they are designated, in accordance with regulation 14 and schedule 3 of the Port Security Regulations, which is scrutinised and approved by the Department. It is therefore necessary for the Designation Order (which also designates the Port Security Authority) to come into force before the Port Security Authority can carry out a formal port security assessment. Under Regulation 14(6) of the Port Security Regulations 2009 the Port Security Authority must request the Secretary of State's approval for the port security assessment within 9 months of the Designation Order coming into force.

3.12 So essentially this means that in the UK we need to establish the Port Security Authority for each of the Listed Ports through the Designation Order process and define the relevant boundary for that Listed Port, before the Port Security Authority designated for that port can carry out a risk assessment due to the additional legislative powers that come through defining the boundary.

4. Port of (Listed Ports) Security Regime - Options

4.1 Option 1. Do nothing. This option continues with the existing security regime based on the Aviation and Maritime Security Act 1990 and the Regulation (EC) 725/2004 security regimes; it does not involve the incorporation of measures identified by the European Community to further improve port security to help prevent terrorist incidents. As this option is a continuation of the status quo it does not have any additional benefits or costs associated with it.

4.2 Option 2. Introduce a Statutory Instrument defining the boundary of the Port of (Listed Port) and designating the 'Port of (Listed Port) Security Authority' as the Port Security Authority for the Port of (Listed Port), for the purposes of Directive 2005/65/EC as transposed by the Port Security Regulations 2009. This option has the advantages of implementing changes to the security regime at the Listed Port such that it is consistent with those measures that have been identified as contributing to the removal of the existing vulnerability of port security to terrorist incidents. It does however introduce additional costs to implement the required changes and measures.

4.3 Option 2 is the preferred option as it implements the requirements of Directive 2005/65/EC as transposed by the Port Security Regulations 2009 at the Port of (Listed Port). This will result in the ports having a security regime consistent with measures identified to remove existing vulnerability of port security to terrorist incidents. This will contribute to reducing the UK's vulnerability to maritime terrorist incidents – with the Listed Ports being a number of a series of ports introducing enhanced security measures; the first was the Port of Bristol with the Port Security (Avonmouth Dock and Royal Portbury and Port of Bristol Security Authority) Designation Order 2010 which came into force on 19 March 2010.

5. Port of (Listed Ports) Designation Orders - Costs and Benefits

Costs

5.1 Cost evidence from the UK ports industry

5.2 In the public consultation held in 2008 on the six options identified for implementing EC Directive 2005/65/EC in the UK, three respondents provided their own estimates of the potential cost of the regulations. Cromarty Firth Port Authority estimated further costs of between £5,000 and £40,000 per year, and Portland Harbour Authority Ltd and Poole Harbour Commissioners estimated further costs at £50,000 per year. However, these respondents were not willing to provide supplementary evidence to justify their calculations *at that time* as the information was regarded as commercially sensitive.

5.3 In order to ensure it provided robust and transparent evidence on the accuracy of its cost estimates, in May 2011 the Department approached Cromarty Firth Port Authority, Portland Harbour Authority Ltd and Poole Harbour Commissioners asking if they would be willing to comment further on the Department's original cost estimates. Furthermore, the Department also approached several other UK ports with whom initial stakeholder discussions had been held over possible designation, and to the Port of Bristol which was in a unique position to comment as the only port hitherto legally designated (the Designation Order came into force on 19 March 2010).

5.4 The exercise was successful in eliciting responses from the ports contacted. The detailed cost information provided by the ports has been evaluated alongside cost information provided by the Port of

Dover. The estimates derived were used in the Impact Assessment of the "The Port Security (Port of Dover) Designation Order 2011" and has informed the Standard Rates given below as well as the estimated resource required at each of the Listed Ports over the five year period for this impact assessment (see annexes A - G for a break down of costs at each port). These Standard Rates have been used for all Listed Ports unless stated otherwise. The Department is of the view that the cost estimates are robust, transparent and based upon substantive evidence from the UK ports industry. However, as the Listed Ports may differ noticeably from those on which the estimates are based, these may be revised as necessary for the port concerned in light of comments received from the consultation.

Table 1: Standards Rates

PSO/PFSO	57,000	£s/annum
Admin	21,646	£s/annum
Accommodation	37.5	£s/hr

5.5 Cost of the measures required under the Port of (Listed Port) Designation Order

5.6 The making of the Port of (Listed Port) Designation Order will require the following measures to be adopted at each Listed Port:

- The appointment of a Port Security Officer (PSO), to act as a point of contact for port security related issues;
- The establishment of a Port Security Authority (PSA), which will be responsible for the completion of a Port Security Risk Assessment and the preparation, implementation and on-going review of a Port Security Plan based on the findings of the Port Security Risk Assessment;
- The carrying out of a Port Security Risk Assessment (PSRA) – a comprehensive review and assessment of the port's security risks and issues that informs the development of the Port Security Plan; and
- The creation of a Port Security Plan (PSP), integrating all existing security plans and developed through the Port Security Risk Assessment.

5.7 The summary table below shows the Department's cost estimates of implementing these measures at the Listed Ports and will be amended as appropriate for the final stage Impact Assessment following public consultation. The costs shown for each Listed Port are based on an estimate of the total cost for the PSO, PSA, PSRA and PSP in the first year (Table 2a) plus the total costs for the four years following (Table 2b). For a breakdown of costs for individual ports, please see Annexes A - G.

Table 2: Total estimated cost to Listed Ports for first five years

Port	Cost/port 1st 5 yrs
Portland	100,331
Grangemouth	100,331
Workington	116,006
Milford Haven	109,736
Liverpool	135,782
Tees and Hartlepool	162,791
Aberdeen	122,277
Total estimated 5 yr costs	847,253

Table 2a: Total estimated costs for start up year

Port	PSR activity				Total 1st Yr cost £s
	PSO	PSA*	PSRA	PSP	
Portland	25,080	0	8,445	1,206	34,730
Grangemouth	25,080	0	8,445	1,206	34,730
Workington	25,080	0	14,473	1,206	40,759
Milford Haven	25,080	0	12,062	1,206	38,348
Liverpool	25,080	0	24,603	1,206	50,889
Tees and Hartlepool	25,080	0	36,178	1,206	62,464
Aberdeen	25,080	0	18,815	1,206	45,101
Total for 7 ports	175,560	0	123,021	8,440	
Total estimated start up year costs for 7 ports					307,021

Table 2b: Estimated total ongoing annual costs after start-up year

Port	PSR activity				Total ongoing Yr cost £s
	PSO	PSA*	PSRA	PSP	
Portland	12,540	0	3,378	482	16,400
Grangemouth	12,540	0	3,378	482	16,400
Workington	12,540	0	5,789	482	18,812
Milford Haven	12,540	0	4,825	482	17,847
Liverpool	12,540	0	8,201	482	21,223
Tees and Hartlepool	12,540	0	12,059	482	25,082
Aberdeen	12,540	0	6,272	482	19,294
Total for 7 ports	87,780	0	43,902	3,376	
Total estimated ongoing annual costs for 7 ports					135,058

*The PSA will replace existing Port Security Committees so there is no additional cost incurred. Please see paragraph 5.26 for more detail.

Note: The cost of the Port Security Officer includes any cost they may incur as a result of their attendance at Port Security Authority meetings.

For a detailed breakdown of costs at an example port, please see the IA for Port Security (Port of Dover) Designation Order 2011, and Annexes A - G for the Ports listed in this Impact Assessment.

5.8 PORT SECURITY OFFICER (PSO): Article 13 of the Port Security Regulations 2009 established the functions of the PSO as follows:

“13.-(1) A port security officer for a port -

- (a) is the point of contact for port security related issues; and
- (b) must co-operate with –
 - (i) port facility security officers of port facilities situated in the port;
 - (ii) directed parties of AMSA facilities (if any) situated in the port; and
 - (iii) security managers of port related areas (if any) for the port.

(2) A port security officer for a port may require a port facility security officer of a port facility situated in the port, a directed party of an AMSA facility situated in the port or a security manager of a port related area for the port, to furnish him with such information as he may consider necessary to carry out his functions.”

The tasks which the PSO for each of the Listed Ports will be required to undertake can be summarised as follows:

- the dissemination of security information from the PSA to PFSOs and other security personnel within the port; and

- responding to day-to-day queries on the Port Security Plan.

The PSO may also function as:

- chair of the PSA;
- An attendee of the PSA;
- Co-ordinator of drills and exercises under the PSP;
- Assist the PSA by creating, either in whole or in part, the Port Security Plan.

5.9 For the Port of Dover final stage impact assessment an information gathering exercise was conducted in May 2011. In response, the Port of Bristol (which as highlighted at 5.3 is the only port hitherto legally designated), Portland Harbour and Poole Harbour all confirmed that in their view the Department's original PSO estimate (provided as part of the public consultation on the Port Security ((Port of Dover)) Designation Order 2011) of a cost of £6,400 based on 1 working day per week was accurate. Cromarty Firth Port commented that the figure given is salary only and does not include other costs and expenses, for which they estimated an extra 30% should be added to the total PSO cost. Forth Ports agreed that 1 day per week was realistic in terms of time commitment for the PSO role, but that the figure given should reflect 2011 prices which would in their view amount to £10,400 per annum. The Port of Belfast commented that the role will involve 6 months full time work followed by two days per week thereafter. They also commented that the total figure should be divided by the number of working days (260), as opposed to the number of calendar days, giving a total PSO cost per annum of £19,334.

5.10 The Port of Dover advised that in their view two days per week will be required in the start-up year for the PSO role. The PSO Designate, who is a Director, also commented that he would probably spend a half-day on the role, with the remaining day and a half in the start up year carried out by a supporting port security manager.

5.11 The Department agreed that the cost per annum of the PSO should be updated to reflect 2011 prices. Furthermore the Department agreed that travel and subsistence expenses need to be included within the cost of the PSO, but since at Dover the PSO will be working within the port itself these expenses should be 10% as opposed to 30%. Whilst the Department did not agree that the PSO role will require 6 months full time work, it has recognised that in the start-up year two working days for the PSO role will be required. This is because the Port Security Plan has to be completed in the start-up year (and at the Port of Dover this task will fall to the PSO). In succeeding years the Department view is that 1 working day per week will be required for the PSO role at the Port of Dover, since the PSP will have been completed and the PSR requirements will have become established at the port.

5.12 The Department therefore estimated the costs of the PSO at the port of Dover as £34,216 in the start-up year (based on half a day of a Director's time per week at an annual salary of £140,000 including NI and Super Ann, plus one and a half days of a supporting security managers time per week at an annual salary of £57,000 including NI and Super Ann in 2011 prices) with a subsequent annual cost of £21,684 (based on half a day of a Director's time per week, plus half a day of a supporting security managers time per week).

5.13 For the Listed Ports it is the Departments view that the PSO function will be carried out by the PSO alone with no additional cost incurred by input at director level.

5.14 Based on two days of a PSO's time per week at an annual salary of £57,000 including NI and Super Ann in 2011 prices the Department therefore estimates the sum cost of the PSO at the Listed Ports as £175,560 in the start-up year (sum of (104 days x 57,000/260(annual working days)) at each port), with a subsequent annual cost of £ 87,780 (based on one day of a PSO's time per week at each of the Listed Ports).

This gives a total PSO cost for the start-up year at the Listed Ports of £175,560, an average total annual cost for the Listed Ports for the next four years of £87,780 and an estimated grand total cost to Listed Ports over the first five years of £526,680.

Thus, for example, at the Port of Portland the estimated cost of the Port Security Officer is:

First Year

[For the PSO: (57,000 (average annual salary for PSO inc. NI etc)/260 (working days per annum) = daily rate)) x 1.1 (for 10% expenses) x 104 (number of days that PSO required in 1st year)]

= £25,080 (Total estimated cost of PSO at Portland in the 1st year)

Annually for the next four years

[For the PSO: (57,000 (average annual salary for PSO inc. NI etc)/260 (working days per annum) = daily rate)] x 1.1 (for 10% expenses) x 52 (number of days that PSO required in 1st year)]

= £12,540 (estimated annual cost of PSO at Portland for each of the subsequent four years)

For a detailed breakdown of costs for the Ports listed in this Impact Assessment at an example port, see annexes A - G.

5.15 PORT SECURITY AUTHORITY (PSA): Regulation 5 (1) of The Port Security Regulations 2009 defines the PSA as “..... a body that has been designated as a Port Security Authority for a port.” Regulation 14 requires the PSA to complete a port security risk assessment in respect of each port for which it has been designated. Regulations 14 and 15 further require the PSA to be responsible for the preparation and implementation of a port security plan based on the findings of the Port Security Risk Assessment.

The principal tasks which a PSA will be expected to undertake at a port for which they are designated can therefore be summarised as follows:

- Conduct the Port Security Risk Assessment;
- Prepare the Port Security Plan based on the findings of the Port Security Risk Assessment;
- Keep the Port Security Risk Assessment and Port Security Plan under on-going review.

This will involve not only detailed knowledge of procedures and capabilities at grassroots level within a port, but also the executive capability to ensure that procedures are followed in the relevant port facilities. Individual members also retain their own areas of responsibility dependent upon their roles.

5.16 The PSA must have at least three members and will be made up of those who are responsible for regulated security matters in the constituent facilities of a “Port”.

These are:

- port facility security officers;
- AMSA directed parties (if applicable);
- Security managers of designated Port Related Areas (if applicable);
- Possibly other parties with a security interest at the port e.g. shipping companies using the port.

It is desirable that the PSA is of a size sufficient to cover security issues across the port, including interaction with external agencies such as UK Border Agency, Maritime and Coastguard Agency etc, but at the same time the membership of the PSA needs to be of manageable size since it needs to be as close as possible to those practically responsible for the delivery of security in the constituent port facilities.

5.17 For the Port of Dover final stage impact assessment, the Port of Dover advised that in their view the PSA will normally need to meet for a maximum of four times per year, for one working day per meeting. However, the Port of Dover also commented that in the start-up year the PSA will need to meet for longer due to the requirement to conduct the Port Security Risk Assessment. They also advised that the Port of Dover PSA will have five members, with five advisers also invited to attend (the advisers are representatives of relevant Government Departments and Agencies, attending in their official capacity, costs of the five advisers will be met from within existing Departmental and Agency budgets). There are also up to nine interested stakeholders who may attend Dover PSA meetings on an ad hoc basis.

5.18 The Department does not agree that attendance at PSA meetings has to be at senior management e.g. Board Director, level. The Port Security Regulations 2009 only require the attendance of port facility security officers; AMSA directed parties (if applicable); Security Managers of designated Port Related Areas (if applicable); and possibly other parties with a security interest at the port e.g. shipping companies using the port. This level of management is considered of a sufficient seniority to take appropriate decisions, and is the current level of seniority of attendees at the existing Port Security Committees. In the unlikely circumstance where a decision by the Board of Directors is required, the

Chair of the PSA could raise the matter with the Dover Harbour Board of Directors, which already incurs its own costs.

5.19 The Department does agree that costs should be split into start-up and annual costs (and has done this for each of the measures specified at 5.6). The Department also agrees that the PSA cost needs to include the costs of administrative support e.g. for the facilitation of meeting arrangements and recording of meeting minutes and agreed actions, and the costs of the meeting room, heating, lighting and IT/Communications. Furthermore the Department agrees that in the start-up year the PSA will need to meet more often and/or for a longer duration due to the requirement to complete the Port Security Risk Assessment. In the interests of transparency, the Department has chosen to include the cost of the PSA time needed to complete the assessment under the Port Security Risk Assessment requirement. The costs given in this section therefore reflect the cost of the regular PSA meetings, and exclude the PSA time needed to complete the assessment.

5.20 Based on the information supplied by the Port of Dover, the Department was of the view that in the start-up year the PSA for the Port of Dover will meet four times a year with a maximum of 19 people in attendance (five members, five advisers and up to 9 interested stakeholders), with each meeting lasting one working day, with the cost of estimated at £13,504.40 ($14 \times 4 \times (219.23 \times 1.1) = £241.15$) = £13,504.40). This figure is based on the average salary for a PFSO which is estimated at £57,000 (including National Insurance and Superannuation). PFSOs are required to be members of the PSA, and the Department has used their salary as the average salary of PSA members. This figure did not include the costs of the five advisers who, as mentioned above, will have their costs met by their respective Government Departments and Agencies.

5.21 In addition the cost of administrative support needs to be included. Based on a Departmental administrative support grade on an annual salary of £21,646.13 (inclusive of NI contributions and Superannuation), and on the assumption that a maximum of 8 working days per annum is required (a half-day for each meeting to make facilitation arrangements, 1 day per meeting to minute the meeting and a half-day to write-up and circulate the minutes), for the Port of Dover it was estimated administrative support would cost £521.84 ($8 \times 59.30 \times 1.1(10\%) = £521.84$). In addition the cost of meeting rooms, heating, lighting and communications and IT for the PSA meetings was estimated at £1,200 ($8 \times £37.50 = £300 \times 4 = £1,200$).

5.22 This gave a total PSA cost for the start-up year at the Port of Dover of £15,226.24. Average cost for the four years thereafter is £15,226.24 per annum, based on the PSA continuing to meet four times a year for one working day per meeting (and including the cost of administrative support, meeting rooms, heating, lighting, communications and IT shown above).

5.23 For Listed Ports, the view is that the PSA will normally need to meet for a maximum of four times per year, for one working day per meeting. However, it may be that in the start-up year the PSA will need to meet for longer due to the requirement to conduct the Port Security Risk Assessment. Listed Ports have advised that PSAs will be comprised of members, advisors (representatives of relevant Government Departments and Agencies, attending in their official capacity, where costs will be met from within existing Departmental and Agency budgets) and in some cases other stakeholders e.g. shipping companies using the port, attending PSA meetings on an ad hoc basis.

5.24 The cost of a PSA is calculated as a function of the annual salary (including NI etc) of the PSO, other members of the PSA and attending stakeholders (plus 10% for expenses incurred), the number of days the PSA will meet for, the cost of administrative support and the cost of accommodation, lighting etc. This figure does not include the costs of the advisers who, as mentioned above, will have their costs met by their respective Government Departments and Agencies. Thus, for example, at the Port of Portland the estimated cost of the PSA based on the standard rates is:

First Year

[(For the PSA attendees: 3 PSA members + 2 Stakeholders) x (57,000 (average annual salary inc. NI etc please)/260 (working days per annum) = daily rate) x 1.1 (for 10% expenses) x 4 (number of days that PSA meets)]

+ [For admin support: 21,646.13 (average annual salary inc. NI etc)/ 260(working days per annum) = daily rate) x 1.1 (for 10% expenses) x 8 (number of days that PSA meets + 1 day (for preparation of agenda, minutes etc)]

+ [For accommodation: 8(hours per day) x 37.50 (hourly rate for office, lighting, heating etc) x 4 (number of days that PSA meets)]

= £6,756 (estimated cost for PSA at Portland in the 1st year)

Annually for the next four years

[(For the PSA attendees: 3 PSA members + 2 Stakeholders) x (57000 (average annual salary inc. NI etc please)/260 (working days per annum) = daily rate) x 1.1(for 10% expenses) x 4 (number of days that PSA meets)]

+ [For admin support: 21,646.13 (average annual salary inc. NI etc)/ 260(working days per annum) = daily rate) x 1.1 (for 10% expenses) x 8 (number of days that PSA meets + 1 day (for preparation of agenda, minutes etc)]

+ [For accommodation: 8(hours per day) x 37.50 (hourly rate for office, lighting, heating etc) x 4 (number of days that PSA meets)]

= £6,756 (estimated annual cost for PSA at Portland for each of the subsequent four years)

For a detailed breakdown of costs at the Ports listed in this Impact Assessment, see Annexes A - G.

5.25 This gives a total PSA cost for the start-up year at the Listed Ports of £114,453, an average total annual cost for the Listed Ports for the next four years of £87,802 and an estimated grand total cost to Listed Ports over the first five years of £465,661.

5.26 At most of the ports which come under the scope of the Port Security Regulations 2009, including at the Listed Ports, there are already Port Security Committees (PSC) in place. In practice therefore most ports will not be forming the PSA from scratch, and existing members of the PSC for a particular port will most likely form the core membership of that port's PSA (with the PSC most likely subsequently being disbanded). In such a scenario there will be no additional cost for the PSA, since the ports already fund their respective PSCs and the costs would simply be transferred over to the PSA. The costs in Table 2, 2a and 2b are therefore based on the following scenario – that there will be no costs incurred in establishing and running the PSA itself but that the PSA will be required to develop the Port Security Risk Assessment and Port Security Plan

5.27 **PORT SECURITY RISK ASSESSMENT (PSRA):** Along with the production of the Port Security Plan and its regular review, this is intended to be the principal activity of the each PSA for the Listed Ports during its meetings (initially conducting the assessment and thereafter ensuring it is regularly reviewed).

5.28 For the Port of Dover final stage impact assessment, the Port of Dover advised that it will take four working days for the PSA (with five PFSSO members, five advisers and five of the third party stakeholders) to create the PSRA for Dover using the intended MATRA-style approach.

5.29 The cost of conducting the Port Security Risk Assessment during the start-up year at the Port of Dover was therefore estimated at £11,367.84. This is based on a cost of £9,646 for five members of the PSA plus five stakeholders (as highlighted at paragraph 5.18, the cost of the advisers is borne by the parent Departments/Agencies) to meet for four days to conduct the assessment, plus costs of administrative support, meeting rooms, heating, lighting, communications and IT. The annual cost thereafter of reviewing the Port Security Risk Assessment is expected to fall to an average annual cost of £5,683.92. This allowed for up to two days of PSA time per annum to carry out amendments to the assessment. In practice there may be no changes required to the assessment, and thus no annual cost. However, this cannot be assumed to be the case every year, hence the contingency. This cost is also likely to be absorbed within the annual running cost of the PSA itself, but has been shown here as a separate cost in the interests of transparency.

5.30 Based on the above and the Department's evaluation of cost information supplied by UK ports, including a number of the Listed Ports (For a breakdown of costs per Listed Port, please see Summary table of Costs at 5.7 and Annex A), it is estimated that it will take five working days in the start up year for a PSA (with members, advisers and third party stakeholders (as necessary)) to create the PSRA for

each port for which that PSA is designated. Thus, for example, at the Port of Portland the estimated cost of the PSRA based on the standard rates is:

First year

[For PSA attendees: (3 PSA members + 2 Stakeholders) x (57,000 (average annual salary inc. NI etc please)/260 (working days per annum) = daily rate) x 1.1 (for 10% expenses) x 5 (number of days that PSA meets to complete assessment)]

+ [For admin support: 21,646.13 (average annual salary inc. NI etc)/ 260(working days per annum) = daily rate) x 1.1 (for 10% expenses) x 10 (number of days that PSA meets + 1 day (for preparation of agenda, minutes etc)]

+ [For accommodation: 8(hours per day) x 37.50 (hourly rate for office, lighting, heating etc) x 5 (number of days that PSA meets)]

= £8,445 (estimated cost for PSRA at Portland in the 1st year)

Annually for the next four years

[For PSA attendees: (3 PSA members + 2 Stakeholders) x (57,000 (average annual salary inc. NI etc please)/260 (working days per annum) = daily rate) x 1.1 (for 10% expenses) x 2 (number of days that PSA meets to complete assessment)]

+ [For admin support: 21,646.13 (average annual salary inc. NI etc)/ 260(working days per annum) = daily rate) x 1.1 (for 10% expenses) x 4 (number of days that PSA meets + 1 day (for preparation of agenda, minutes etc)]

+ [For accommodation: 8 (hours per day) x 37.50 (hourly rate for office, lighting, heating etc) x 2 (number of days that PSA meets)]

= £3,378 (estimated cost for PRSA at Portland for each of the subsequent four years)

For a detailed breakdown of costs at the Ports listed in this Impact Assessment, see Annexes A - G.

5.31 The total cost of conducting the Port Security Risk Assessment for the Listed Ports during the start-up year is estimated at £123,021. Please see Annex A for a breakdown of individual port data. Assuming up to two days of PSA time per annum for each PSA to review and carry out amendments to the assessment as necessary it is estimated the ongoing total annual cost for all Listed Ports will be £43,902 for each of the ensuing four years. This gives a total cost for the PSRA at the Listed Ports for the first five years of £298,629. In practice there may be no changes required to the assessment, and thus no annual cost. However, this cannot be assumed to be the case every year, hence the contingency. This cost is also likely to be absorbed within the annual running cost of the PSA itself, but has been shown here as a separate cost in the interests of transparency.

5.32 **PORT SECURITY PLAN (PSP):** The PSP is intended to include a compilation of existing security and emergency response plans that exist within the wider port area. An approved Port Facility Security Plan is already required to be maintained for all UK commercial port facilities which fall under EC Regulation 725/2004 (which comprises all of the ports to be designated under the Port Security Regulation 2009). The Port Facility Security Plans for Listed Ports already include comprehensive coverage of the most vulnerable port areas. Although a new document will need to be written setting out the roles and responsibilities of the PSA and listing the constituent plans and other documents that comprise the Port Security Plan, this is anticipated to be primarily based on already existing plans. The 'new' task will be to include areas of the port not covered under existing plans.

Under the information gathering exercise conducted in May 2011, the Port of Bristol, Portland Harbour and Poole Harbour have all confirmed that the Department's original assumption and cost estimates for this activity were correct (£600, given as part of the Port Security (Port of Dover) Designation Order 2011). Cromarty Firth Port also agreed with the Department's cost estimate. They did however comment

that an estuary Port with a number of private locations but small turnover may have a high setup cost in preparing and administering the plan. Forth Ports have commented that it would cost £20,000 to produce the Port Security Plan (20 days x £1000 per day, a consultant's rate). The Port of Belfast has commented that in their view the PSP is a radical departure from the concept of the PFSP which was very local in its application and outcomes and, based on the assumption that it takes 4-8 weeks to co-ordinate MATRA responses and develop the new PSP, it would cost £5,580 (30 days work x £186).

5.33 The Department was advised by the Port of Dover that the task of completing the Port Security Plan for the Port of Dover is likely to be delegated to the PSO to complete. It is the Departments view this will also be the case for the Listed Ports.

5.34 The Department is of the view that 20 – 30 days work to produce the PSP is a significant overestimate, based on the experience of the Port of Bristol that 5 working days was sufficient. Although the Port of Dover is larger than Bristol, the Port of Bristol was used as a pilot port for the PSR process and the lessons learnt from the pilot (which the Department will advise to all ports to be designated under PSR) will reduce the time required to produce the Port Security Plan. Moreover the majority of the PSP will consist of existing PFSPs, which are already approved by the Department and which are subject to regular update.

5.35 On the assumption therefore that it will take a maximum 5 working days to produce a consolidated Port Security Plan for the Port of Dover, the estimated cost for the start-up year was £2,959 ($5 * (£538 * 1.1) = £2,959$). This cost is based on the average of the Director and security managers salaries at the Port of Dover (An average annual salary figure based on the Director and Security Manager salaries with Super Ann and NI on top is £99,000) since in practice they are likely to divide the task between them (For the Listed Ports, the Department view is that this work will be the undertaken by the PSO alone). The average annual cost for the PSP thereafter was estimated to be £1,183.60 ($2 * (£538 * 1.1) = £1,183.60$), which allows two working days per annum at the average of the Director and security managers salaries to keep the plan updated. This allows for significant updates to the PSP, but in practice the time taken for updates is likely to be considerably less than this as there are unlikely to be major changes to port infrastructure every year (hence requiring a significant change to parts of the PSP year on year). However, the Department cannot assume this will be the case every year, hence the contingency. The start-up and annual costs are likely to be subsumed within the PSO cost figure, but have been shown separately here in the interests of transparency.

5.36 The Department view id that for the Listed Ports the PSP will be developed by the PSO and therefore estimates, that for each of the Listed Ports, it will take a PSO five working days to develop the PSP for the port for which he is appointed and two working days per annum to review and amend the PSP over the following for years. Thus, for example, at the Port of Portland based on standard rates the estimated cost of the Port Security Plan is:

First year

$(57,000 \text{ (average annual salary inc. NI etc please)} / 260 \text{ (working days per annum)} = \text{daily rate for PSO}) \times 1.1 \text{ (for 10\% expenses)} \times 5 \text{ (number of days for PSO to complete Port security Plan)}$
= £1,206 (estimated cost for PSP at Portland in the first year)

Annually for the next four years

$(57,000 \text{ (average annual salary inc. NI etc please)} / 260 \text{ (working days per annum)} = \text{daily rate for PSO}) \times 1.1 \text{ (for 10\% expenses)} \times 2 \text{ (number of days for PSO to complete Port security Plan)}$
= £482 (estimated cost for PSP at Portland for each of the subsequent four years)

For a detailed breakdown of costs at the Ports listed in this Impact Assessment, see Annexes A - G.

5.37 For Listed Ports the estimated total first year PSP cost will be £8,440 and the estimated total ongoing annual cost will be £3,376 giving a grand total cost for the Listed Ports of £21,944. Please see 5.7 and Annex A for individual port data.

As in the case for the Port of Dover, start-up and annual costs are likely to be subsumed within the PSO cost figure, but have been shown separately here in the interests of transparency.

5.38 **ADDITIONAL SECURITY MEASURES AT THE LISTED PORTS:** A preliminary security assessment by the Department at the Listed Ports undertaken to determine whether or not each Port

was in or out of scope of Directive 2005/65/EC, has not identified any additional security measures, beyond those already in place, which may be required at the ports once the Designation Orders come into effect. As highlighted above, the existing Port Facility Security Plans at the ports already cover the most security vulnerable areas and measures are already in place. A Port Security Risk Assessment will need to be conducted at each port to verify the assumption that no additional security measures will be needed as a result of designation but, based on the available evidence, the Department believes this assumption to be correct.

5.39 It should be noted that the requirement for additional security measures at ports to be designated under the Port Security Regulations 2009 will differ from port to port, dependent upon the outcome of the Department's preliminary risk assessment and public consultation for the port in question. It is possible therefore that some other ports may require additional security measures as a result of the Port Security Regulations 2009.

5.40 ENFORCEMENT: The Department's Transport Security Compliance Division will be responsible for ensuring that the Listed Ports comply with the new rules. Any additional costs to support implementation at the Listed Ports and compliance monitoring of the Regulations will be found from within existing resources, by re-prioritising work where necessary. There are therefore no direct additional costs arising.

5.41 Benefits:

5.42 The Listed Ports Designation Order will lead to the Listed Ports having a co-ordinated security regime with a clear leadership structure that will take forward security plans drafted by relevant stakeholders. This is expected to lead to economies of scale by channelling existing activities into a single regime and better co-ordination and support between various security institutions such as the police and the government.

5.43 This Order will introduce measures to improve the security of ports to terrorist incidents and will therefore also reduce the chances of successful maritime terrorist incidents – bringing along with it the benefits of a prevented terrorist incident such as saved human injuries and no disruption of the movement of goods and people that could have a material impact on the UK economy.

5.44 Designation Orders under the Port Security Regulations 2009 are required to implement European Directive 2005/65/EC on enhancing port security in UK law. Failure to designate UK ports which fall under the scope of the EU Directive would therefore result in infraction proceedings by the European Commission, which would result in financial penalties on, and reputational damage to, the UK (considered a world leader in maritime security).

6. Small Firms Impact Test

6.1 Implementation of the Port Security Directive is likely to affect a number of small businesses based at, or working within, the designated Listed Ports. The port facilities based within the envisaged port boundaries are already regulated by the Department for Transport under the existing port security regime. Under the current regime these facilities also have Port Facility Security Plans in place which are approved by the Department for Transport and these plans will feed into the wider Port Security Plans to be managed by the Security Authorities for the Listed Ports under the new legislation. As highlighted at paragraph 5.38, preliminary security assessments by the Department at the listed Ports have not identified any additional security measures which may be required at the port once the Designation Order comes into effect (beyond those already in place).

6.2 The Port Security Regulations 2009 recognise the need to avoid overburdening smaller ports by allowing a number of port facilities to combine under the umbrella of a single port security authority, thereby taking advantage of economies of scale. For the Listed Ports it is estimated that one small business will become a member of a PSA and as they are currently members of a PSC and following the designation of the PSA there will no longer be a requirement for a PSC for the Port for which that PSA is designated, it is anticipated that there will be no additional cost to small businesses for their membership of a PSA.

6.3 However, as a member of a PSA, small business will participate in the Port Security Risk Assessment. The start up year costs to small businesses at each Listed Port is calculated as a function of total number of small business, the number of days the PSA meets to complete the risk assessment and the average PSA member daily rate (plus 10% for expenses) and annually thereafter as the number of days the PSA meets to review the risk assessment and the average PSA member daily rate (plus 10% for expenses)

Table 3: Total Estimated cost to small businesses for first five years*

Port	Cost/port 1st 5 yrs
Portland	0
Grangemouth	0
Workington	3,135
Milford Haven	0
Liverpool	0
Tees and Hartlepool	0
Aberdeen	0
Total estimated 5 yr costs	3,135

% total cost borne by small businesses	0.4
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* Based on available evidence at the time of drafting. When full data is received from the Listed Ports it is likely the costs to small businesses will increase. Please see Annex A for breakdown of costs for each port.

As highlighted at paragraph 5.31, the annual cost of updating the Port Security Risk Assessment is likely to be absorbed within the annual running cost of the PSA itself, but has been shown here as a separate cost in the interests of transparency.

6.4 As explained at paragraph 5.32, the task of completing the Port Security Plans at each of the Listed Ports is likely to be delegated to the PSO for that Listed Port; hence small businesses will not incur any costs from this activity unless the PSO is employed by a small business (in which case costs will be shown).

6.5 The costs identified above correspond to 0.4% of total annual costs (excluding transition costs) being borne by small business. Remaining costs will be borne by the other PSA member organisations as to be agreed by the membership of that PSA.

7. Competition Assessment

7.1. The Directive aims to provide a consistent approach to maritime security across Europe, which would reduce the potential for trade and competition distortion. The requirements of the Directive to extend its provisions to domestic ports serving Class A passenger ships (i.e. ships which travel further than 20 miles from the coast) further neutralises the possibility of the Directive distorting the balance of commitments between those industries involved in international trade and those trading purely on a domestic basis.

7.2 Within the UK, the Directive is not expected to make a significant difference on modal and route competition. The approach in the UK is, and will continue to be, for the user to pay for security measures. Additional costs incurred by a port to meet the requirements of the Directive may be passed on in some form to their customers. We believe that this approach leads to the most efficient provision and operation of security measures.

7.3 The “user pays” approach for the port industry is consistent with previously adopted security methods in the maritime passenger sector, the aviation industry and the Channel Tunnel. As this approach is multilateral, there is not expected to be any change in the level of competition.

7.4 The costs of implementing the security requirements in the Regulations are likely to affect some firms more than others depending on how a port chooses to implement the EC Directive and therefore whether additional security measures are needed. Implementation of the Regulations is unlikely to affect the market structure, or change the size or number of firms in the ports industry. The Regulations are unlikely to lead to substantially higher set-up costs for new or potential firms, or lead to higher ongoing costs for new or potential firms, that existing firms do not have to meet.

7.5 There is a very small risk that through close collaboration on the relevant Port Security Authority, some commercially sensitive information may become known to competitors from other port facilities. The Regulations have provisions that seek to ensure confidentiality of information, as well as offences for misusing information and a system of declaration of PSA members' interests. These measures are intended to protect port business from anti-competitive behaviour.

8. Specific Impact tests

8.1 Statutory equality duties - These proposals will apply to the security regime and not the general operations at the ports concerned. There are considered to be no age, disability, gender, ethnicity and race, religion or belief, sexual orientation, transgender, or pregnancy and maternity implications resulting from these proposals (For further detail see the screening pro forma table at Annex H).

8.2 Economic Impact - There are Small Firms and Competition impacts as a result of these proposals. Please see paragraphs 6.1-6.5 and 7.1-7.5 for details.

8.3 Environmental Impact - The proposal will not affect general operations at the ports concerned. Therefore it is considered there will be no Environment or Greenhouse Gas implications resulting from these proposals.

8.4 Social Impacts -

1. Health and Well-being - As the proposal applies to the security regime and will not affect general operations at the ports concerned, there are considered to be no health and well being impacts as a result of these proposals.

2. Human Rights - Article 8 of the European Convention on Human Rights (ECHR) guarantees the right to respect for private and family life, home and correspondence. Article 8, as incorporated by the Human Rights Act 1998 makes it clear that public authorities must not interfere with the exercise of this right except "such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime for the protection of health or morals, or for the protection of the rights and freedoms of others."

The Secondary legislation that forms the subject of this impact assessment raises potential issues under Article 8 of the ECHR as it allows for the searching of persons and property. We believe however, that the potential interference with Article 8 falls within the exceptions set out within the same Article for the following reasons:

The potential interference is in accordance with the law for the following reasons:

Some searches are already carried out under the Aviation and Maritime Security Act 1990;
The searches which may be carried out are limited as specified in the Regulations;

The potential interference pursues a legitimate objective. It will mean that people, property, baggage, cargo and vehicles can be searched to ensure that articles capable of use for causing injury to or incapacitating a person or for destroying or damaging property, or intended for such use are not introduced into security sensitive areas of ports. The secondary legislation can therefore be said to be in the interests of national security, prevention of crime, public safety and economic well-being of the country and the potential interference with Article 8 can be justified on these grounds.

The potential interference can be said to be proportionate to that legitimate aim since the extent to which it will be applied will be dependant upon the security level applied to the port.

3. Justice System - PSA members are liable to an offence and penalty relating to conflict of interest. The Designation Orders will only apply to members of the relevant

4. Rural proofing - As the proposal applies to the security regime and will not affect general operations at the ports concerned, there are considered to be no rural implications

8.5 Sustainable Development - As the proposal applies to the security regime and will not affect general operations at the ports concerned, there are considered to be no sustainable development implications as a result of these proposals.

9. Enforcement, sanctions and monitoring

9.1 The Directive requires that Member States put in place effective, proportionate and dissuasive sanctions for breach of the requirements of the security regime. Enforcement regimes for maritime security already exist under the Aviation and Maritime Security Act of 1990 (AMSA) and the Ship and Port Facility (Security) Regulations 2004 (UK Regulations) which provides for the enforcement of the EC Regulation in the UK. Both security regimes are based on a stepped approach whereby administrative procedures and dialogue are entered into to try and secure compliance or rectification, before an Enforcement Notice is issued. Failure to comply with the Enforcement Notice would be followed by a criminal prosecution. However, depending on the particular circumstances, for example where a more serious non-compliance or offence has taken place, an Enforcement Notice could be issued immediately. We propose that this approach should be replicated for enforcement of the Directive.

9.2 Adopting the existing approach to enforcement will also ensure that the offences under all the maritime security regimes (i.e. AMSA, the EC Regulation/IMO regime and Directive's port security regime) are consistent. The primary mechanism centres on failure to comply with an Enforcement Notice, and this will therefore be handled in the same way and with similar penalties being meted out. Although the ultimate sanction of a criminal prosecution exists, this stepped approach should mean that the vast majority of breaches will be resolved without recourse to the courts.

9.3 As is often the case when implementing EC obligations, section 2(2) of the European Communities Act 1972, ("ECA") is the enabling power that is expected to be used to implement the requirements of the Directive.

9.4 Responsibility for security matters has not been devolved to Scotland, Wales or Northern Ireland, so the Order will apply to the whole of the UK (although its subject matter obviously relates to port operations in the Listed Ports).

9.5 As under AMSA and the EC Regulation/IMO regime, the Department's Transport Security Inspectors will be duly authorised to carry out compliance inspections of all UK ports under the Directive. In accordance with Article 13 of the Directive, the European Commission will commence a series of visits six months after the Directive comes into force to monitor compliance with the Directive.

9.6 Member States must ensure that a review of port security assessments and port security plans is carried out at least once every five years.

10. Direct costs and benefits to business calculations (following OIOO methodology)

10.1 This proposal is not subject to one in one out because it is necessary in order to comply with an EU requirement.

Annex A Estimated Costs to Port of Portland

Note: Please see evidence base for derivation of Standard Rates
All costs are in £s
Where pence are not shown cost is rounded to nearest pound.

Standard Rates

PSO/PFSO	57,000	£s/annum
Admin	21,646	£s/annum
Accommodation	37.5	£s/hr

Annual salary	£s	Daily Rate* including overheads and expenses
PSO/PFSO	57,000	241.15
Admin	21,646	91.58
Accommodation	37.5	

*Daily rate = annual salary(inc overheads)/260
(workdays per year) plus 10% expenses

Estimated PSR costs over 5 year period (£s)

	Annual cost				
	Start up	Yr2	Yr3	Yr4	Yr5
PSO	25,080	12,540	12,540	12,540	12,540
PSA	0	0	0	0	0
PSRA	8,445	3,378	3,378	3,378	3,378
PSP	1,206	482	482	482	482
Total	34,730	16,400	16,400	16,400	16,400
Total estimated cost for first 5 years					100,331

Port Security Officer

Start up year		Total
No. of working days	104	25,080
Annual cost		
No. of working days	52	12,540

Port Security Authority

Start up year		Totals
PSA		
No. Members	3	
No. Stakeholders	2	
No. days that PSA meets	4	4,823
Admin		733
Accommodation etc		1,200
Total PSA start up cost		6,756

Annual cost			Totals
PSA			
No. Members		3	
No. Stakeholders		2	
No. days that PSA meets		4	4,823
Admin			733
Accommodation etc			1,200
Total PSA annual cost			6,756

Port Security Risk Assessment

Annual cost start up			Totals
PSA			
No. Members		3	
No. Stakeholders		2	
No. days that PSA meets		5	6,029
Admin			916
Accommodation etc			1,500
Total PRSA start up cost			8,445

Annual cost on going			Totals
PSA			
No. Members		3	
No. Stakeholders		2	
No. days that PSA meets		2	2,412
Admin			366
Accommodation etc			600
Total PRSA on going annual cost			3,378

Port Security Plan

PSP Start up year		Totals
No. members	1	
No. Stakeholders	0	
No days to complete plan	5	
Total PSP Start up year costs		1,206

PSP Annual costs		Totals
No. members	1	
No. Stakeholders	0	
No days to review plan	2	
Total PSP Start Annual costs		482

Note: It is assumed resource developing a PSP will always include the PSO

Costs to small businesses

The Port of Portland has advised there are no small businesses that will be affected by the implementation of the Port Security Regulations 2009 at the Port of Portland.

Annex B

Estimated Costs to Port of Grangemouth

Note: Please see evidence base for derivation of Standard Rates
 All costs are in £s
 Where pence are not shown cost is rounded to nearest pound.

Standard Rates

PSO/PFSO	57,000	£s/annum
Admin	2,1646	£s/annum
Accommodation	37.5	£s/hr

Annual salary	£s	Daily Rate* including overheads and expenses
PSO/PFSO	57,000	241.15
Admin	21,646	91.58
Accommodation	37.5	

*Daily rate = annual salary(inc overheads)/260
 (workdays per year) plus 10% expenses

Estimated PSR costs over 5 year period (£s)

	Annual cost				
	Start up	Yr2	Yr3	Yr4	Yr5
PSO	25,080	12,540	12,540	12,540	12,540
PSA	0	0	0	0	0
PSRA	8,445	3,378	3,378	3,378	3,378
PSP	1,206	482	482	482	482
Total	34,730	16,400	16,400	16,400	16,400
Total estimated cost for first 5 years					100,331

Port Security Officer

Start up year		Total
No. of working days	104	25,080
Annual cost		
No. of working days	52	12,540

Port Security Authority

Start up year		Totals
PSA		
No. Members	5	
No. Stakeholders	0	
No. days that PSA meets	8	9,646
Admin		1,099
Accommodation etc		2,400
Total PSA start up cost		13,145

Annual cost			
PSA			Totals
No. Members		5	
No. Stakeholders		0	
No. days that PSA meets		4	4,823
Admin			733
Accommodation etc			1,200
Total PSA annual cost			6,756

Port Security Risk Assessment

Annual cost start up			
PSA			Totals
No. Members		5	
No. Stakeholders		0	
No. days that PSA meets		5	6,029
Admin			916
Accommodation etc			1,500
Total PRSA start up cost			8,445

Annual cost on going			
PSA			Totals
No. Members		5	
No. Stakeholders		0	
No. days that PSA meets		2	2,412
Admin			366
Accommodation etc			600
Total PRSA on going annual cost			3,378

Port Security Plan

PSP Start up year			Totals
No. members		1	
No. Stakeholders		0	
No days to complete plan		5	
Total PSP Start up year costs			1,206

PSP Annual costs			Totals
No. members		1	
No. Stakeholders		0	
No days to review plan		2	
Total PSP Start Annual costs			482

Note: It is assumed resource developing a PSP will always include the PSO

Costs to small businesses

The Port of Grangemouth has advised there are no small businesses that will be affected by the implementation of the Port Security Regulations 2009 at the Port of Grangemouth.

Annex C

Estimated Costs to Port of Workington

Note: Please see evidence base for derivation of Standard Rates
 All costs are in £s
 Where pence are not shown cost is rounded to nearest pound.

Standard Rates

PSO/PFSO	57,000	£s/annum
Admin	21,646	£s/annum
Accommodation	37.5	£s/hr

Annual salary	£s*	Daily Rate including overheads and expenses
PSO/PFSO	57,000	241.15
Admin	21,646	91.58
Accommodation	37.5	

*Daily rate = annual salary(inc overheads)/260
 (workdays per year) plus 10% expenses

Estimated PSR costs over 5 year period (£s)

	Annual cost				
	Start up	Yr2	Yr3	Yr4	Yr5
PSO	25,080	12,540	12,540	12,540	12,540
PSA	0	0	0	0	0
PSRA	14,473	5,789	5,789	5,789	5,789
PSP	1206	482	482	482	482
Total	40,759	18,812	18,812	18,812	18,812
Total estimated cost for first 5 years					116,006

Port Security Officer

Start up year		Total
No. of working days	104	25,080
Annual cost		
No. of working days	52	12,540

Port Security Authority

Start up year		Totals
PSA		
No. Members	5	
No. Stakeholders	5	
No. days that PSA meets	4	9,646
Admin		733
Accommodation etc		1,200
Total PSA start up cost		11,579

Annual cost			Totals
PSA			
No. Members		5	
No. Stakeholders		5	
No. days that PSA meets		2	4,823
Admin			366
Accommodation etc			600
Total PSA annual cost			5,789

Port Security Risk Assessment

Annual cost start up			Totals
PSA			
No. Members		5	
No. Stakeholders		5	
No. days that PSA meets		5	12,058
Admin			916
Accommodation etc			1,500
Total PRSA start up cost			14,473

Annual cost on going			Totals
PSA			
No. Members		5	
No. Stakeholders		5	
No. days that PSA meets		2	4,823
Admin			366
Accommodation etc			600
Total PRSA on going annual cost			5,789

Port Security Plan

PSP Start up year		Totals
No. members	1	
No. Stakeholders	0	
No days to complete plan	5	
Total PSP Start up year costs		1,206

PSP Annual costs		Totals
No. members	1	
No. Stakeholders	0	
No days to review plan	2	
Total PSP Start Annual costs		482

Note: It is assumed resource developing a PSP will always include the PSO

Costs to small businesses

The Port of Workington has advised there is one small business, Ultimate Security and Investigation that will be affected by the implementation of the Port Security Regulations 2009 at the Port of Workington.

Number of small businesses	1
Cost for PSRA	
Start up year	1,206
Ongoing annual cost	482

Ultimate Security and Investigation, as a member of the Workington PSA, will be asked to participate in the Port Security Risk Assessment. As indicated at paragraph 5.28, the Port of Workington has estimated it will take five working days to complete the assessment in the start-up year, and the Department has allowed two working days per annum thereafter to keep the risk assessment updated. Based on an average PSA member salary of £57,000 per annum including NI and Super Ann in 2011 prices (the average salary of a PFSO at the Port of Workington has been used as the average salary of a PSA member), the cost to Ultimate Security and Investigation of their participation in the Port Security Risk Assessment in the start-up year will be £1,206 ($1 \times 5 \times (219.23 \text{ plus } 10\%)$), and £482 annually thereafter ($1 \times 2 \times (219.23 \text{ plus } 10\%)$). The annual cost of updating the Port Security Risk Assessment is likely to be absorbed within the annual running cost of the PSA itself, but has been shown here as a separate cost in the interests of transparency.

The Port of Workington has informed the Department that the task of completing the Port Security Plan is likely to be delegated to the Port of Workington PSO; hence Ultimate Security and Investigation will not incur any costs from this activity.

The costs identified above correspond to 3% of total annual costs (excluding transition costs) being borne by small business.

Annex D Estimated Costs to Port of Milford Haven

Note: Please see evidence base for derivation of Standard Rates
All costs are in £s
Where pence are not shown cost is rounded to nearest pound.

Standard Rates

PSO/PFSO	57,000	£s/annum
Admin	21,646	£s/annum
Accommodation	37.5	£s/hr

Annual salary	£s*	Daily Rate including overheads and expenses
PSO/PFSO	57,000	241.15
Admin	21,646	91.58
Accommodation	37.5	

*Daily rate = annual salary(inc overheads)/260
(workdays per year) plus 10% expenses

Estimated PSR costs over 5 year period (£s)

	Annual cost				
	Start up	Yr2	Yr3	Yr4	Yr5
PSO	25,080	12,540	12,540	12,540	12,540
PSA	0	0	0	0	0
PSRA	12,062	4,825	4,825	4,825	4,825
PSP	1,206	482	482	482	482
Total	38,348	17,847	17,847	17,847	17,847
Total estimated cost for first 5 years					109,736

Port Security Officer

Start up year		Total
No. of working days	104	25,080
Annual cost		
No. of working days	52	12,540

Port Security Authority

Start up year			Totals
PSA			
No. Members		6	
No. Stakeholders		3	
No. days that PSA meets		4	8,682
Admin			733
Accommodation etc			1,200
Total PSA start up cost			10,614

Annual cost			
PSA			Totals
No. Members		6	
No. Stakeholders		3	
No. days that PSA meets		4	8,682
Admin			733
Accommodation etc			1,200
Total PSA annual cost			10,614

Port Security Risk Assessment

Annual cost start up			
PSA			Totals
No. Members		6	
No. Stakeholders		2	
No. days that PSA meets		5	9,646
Admin			916
Accommodation etc			1,500
Total PRSA start up cost			12,062

Annual cost on going			
PSA			Totals
No. Members		6	
No. Stakeholders		2	
No. days that PSA meets		2	3,858
Admin			366
Accommodation etc			600
Total PRSA start up cost			4,825

Port Security Plan

PSP Start up year		Totals
No. members	1	
No. Stakeholders	0	
No days to complete plan	5	
Total PSP Start up year costs		1,206

PSP Annual costs		Totals
No. members	1	
No. Stakeholders	0	
No days to review plan	2	
Total PSP Start Annual costs		482

Note: It is assumed resource developing a PSP will always include the PSO

Costs to small businesses

The Port of Milford Haven has not as yet advised whether there are any small businesses that will be affected by the implementation of the Port Security Regulations 2009 at the Port of Milford Haven.

Annex E

Estimated Costs to Port of Liverpool

Note: Please see evidence base for derivation of Standard Rates

All costs are in £s

Where pence are not shown cost is rounded to nearest pound.

Standard Rates

PSO/PFSO	57,000	£s/annum
Admin	21,646	£s/annum
Accommodation	37.5	£s/hr

Annual salary	£s*	Daily Rate including overheads and expenses
PSO/PFSO	57,000	241.15
Admin	21,646	91.58
Accommodation	37.5	

*Daily rate = annual salary(inc overheads)/260
(workdays per year) plus 10% expenses

Estimated PSR costs over 5 year period (£s)

	Annual cost				
	Start up	Yr2	Yr3	Yr4	Yr5
PSO	25,080	12,540	12,540	12,540	12,540
PSA	0	0	0	0	0
PSRA	24,603	8,201	8,201	8,201	8,201
PSP	1,206	482	482	482	482
Total	50,889	21,223	21,223	21,223	21,223
Total estimated cost for first 5 years					135,782

Port Security Officer

Start up year		Total
No. of working days	104	25,080
Annual cost		
No. of working days	52	12,540

Port Security Authority

Start up year		Totals
PSA		
No. Members	13	
No. Stakeholders	4	
No. days that PSA meets	5	20,498
Admin		916
Accommodation etc		1,500
Total PSA start up cost		22,914

Annual cost			Totals
PSA			
No. Members		13	
No. Stakeholders		4	
No. days that PSA meets		4	16,398
Admin			733
Accommodation etc			1,200
Total PSA annual cost			18,331

Port Security Risk Assessment

Annual cost start up			Totals
PSA			
No. Members		13	
No. Stakeholders		2	
No. days that PSA meets		6	21,704
Admin			1,099
Accommodation etc			1,800
Total PRSA start up cost			24,603

Annual cost on going			Totals
PSA			
No. Members		13	
No. Stakeholders		2	
No. days that PSA meets		2	7,235
Admin			366
Accommodation etc			600
Total PRSA on going annual cost			8,201

Port Security Plan

PSP Start up year		Totals
No. members	1	
No. Stakeholders	0	
No days to complete plan	5	
Total PSP Start up year costs		1,206

PSP Annual costs		Totals
No. members	1	
No. Stakeholders	0	
No days to review plan	2	
Total PSP Start Annual costs		482

Note: It is assumed resource developing a PSP will always include the PSO

Costs to small businesses

The Port of Liverpool has not as yet advised whether there are any small businesses that will be affected by the implementation of the Port Security Regulations 2009 at the Port of Liverpool.

Annex F

Estimated Costs to Port of Tees and Hartlepool

Note: Please see evidence base for derivation of Standard Rates

All costs are in £s

Where pence are not shown cost is rounded to nearest pound.

Standard Rates

PSO/PFSO	57,000	£s/annum
Admin	21,646	£s/annum
Accommodation	37.5	£s/hr

Annual salary	£s*	Daily Rate including overheads and expenses
PSO/PFSO	57,000	241.15
Admin	21,646	91.58
Accommodation	37.5	

*Daily rate = annual salary(inc overheads)/260
(workdays per year) plus 10% expenses

Estimated PSR costs over 5 year period (£s)

	Annual cost				
	Start up	Yr2	Yr3	Yr4	Yr5
PSO	25,080	12,540	12,540	12,540	12,540
PSA	0	0	0	0	0
PSRA	36,178	12,059	12,059	12,059	12,059
PSP	1206	482	482	482	482
Total	62,464	25,082	25,082	25,082	25,082
Total estimated cost for first 5 years					162,791

Port Security Officer

Start up year		Total
No. of working days	104	25,080
Annual cost		
No. of working days	52	12,540

Port Security Authority

Start up year			Totals
PSA			
No. Members	20		
No. Stakeholders	5		
No. days that PSA meets	5		30,144
Admin			916
Accommodation etc			1,500
Total PSA start up cost			32,560

Annual cost			
PSA			Totals
No. Members		20	
No. Stakeholders		5	
No. days that PSA meets		4	24,115
Admin			733
Accommodation etc			1,200
Total PSA annual cost			26,048

Port Security Risk Assessment

Annual cost start up			
PSA			Totals
No. Members		20	
No. Stakeholders		3	
No. days that PSA meets		6	33,279
Admin			1,099
Accommodation etc			1,800
Total PRSA start up cost			36,178

Annual cost on going			
PSA			Totals
No. Members		20	
No. Stakeholders		3	
No. days that PSA meets		2	11,093
Admin			366
Accommodation etc			600
Total PRSA on going annual cost			12,059

Port Security Plan

PSP Start up year			Totals
No. members		1	
No. Stakeholders		0	
No days to complete plan		5	
Total PSP Start up year costs			1,206

PSP Annual costs			Totals
No. members		1	
No. Stakeholders		0	
No days to review plan		2	
Total PSP Start Annual costs			482

Note: It is assumed resource developing a PSP will always include the PSO

Costs to small businesses

The Port of Tees and Hartlepool has not as yet advised whether there are any small businesses that will be affected by the implementation of the Port Security Regulations 2009 at the Port of Tees and Hartlepool.

Annex G Estimated Costs to Port of Aberdeen

Note: Please see evidence base for derivation of Standard Rates
All costs are in £s
Where pence are not shown cost is rounded to nearest pound.

Standard Rates

PSO/PFSO	57,000	£s/annum
Admin	21,646	£s/annum
Accommodation	37.5	£s/hr

Annual salary	£s*	Daily Rate including overheads and expenses
PSO/PFSO	57,000	241.15
Admin	21,646	91.58
Accommodation	37.5	

*Daily rate = annual salary(inc overheads)/260
(workdays per year) plus 10% expenses

Estimated PSR costs over 5 year period (£s)

	Annual cost				
	Start up	Yr2	Yr3	Yr4	Yr5
PSO	25,080	12,540	12,540	12,540	12,540
PSA	0	0	0	0	0
PSRA	18,815	6,272	6,272	6,272	6,272
PSP	1206	482	482	482	482
Total	45,101	19,294	19,294	19,294	19,294
Total estimated cost for first 5 years					122,277

Port Security Officer

Start up year		Total
No. of working days	104	25,080
Annual cost		
No. of working days	52	12,540

Port Security Authority

Start up year		Totals
PSA		
No. Members	9	
No. Stakeholders	3	
No. days that PSA meets	5	14,469
Admin		916
Accommodation etc		1,500
Total PSA start up cost		16,885

Annual cost			
PSA			Totals
No. Members		9	
No. Stakeholders		3	
No. days that PSA meets		4	11,575
Admin			733
Accommodation etc			1,200
Total PSA annual cost			13,508

Port Security Risk Assessment

Annual cost start up			
PSA			Totals
No. Members		9	
No. Stakeholders		2	
No. days that PSA meets		6	15,916
Admin			1,099
Accommodation etc			1,800
Total PRSA start up cost			18,815

Annual cost on going			
PSA			Totals
No. Members		9	
No. Stakeholders		2	
No. days that PSA meets		2	5,305
Admin			366
Accommodation etc			600
Total PRSA on going annual cost			6,272

Port Security Plan

PSP Start up year			Totals
No. members		1	
No. Stakeholders		0	
No days to complete plan		5	
Total PSP Start up year costs			1,206

PSP Annual costs			Totals
No. members		1	
No. Stakeholders		0	
No days to review plan		2	
Total PSP Start Annual costs			482

Note: It is assumed resource developing a PSP will always include the PSO

Costs to small businesses

The Port of Aberdeen has not as yet advised whether there are any small businesses that will be affected by the implementation of the Port Security Regulations 2009 at the Port of Aberdeen.

Annex H

EqlA Screening Proforma

<p>Name of the function, policy or strategy - The Port of Portland, Port of Grangemouth, Port of Workington, Port of Milford Haven, Port of Liverpool, Port of Tees and Hartlepool and Port of Aberdeen (Listed Ports) Designation Orders 2012</p> <p>Current or Proposed: Proposed</p>								
<p>Person completing the assessment: Tony L Smith</p>					<p>Date of assessment: 14/12/11</p>			
<p>Purpose of the function, policy or strategy: The policy objective is to enhance security at the Listed Ports to complement measures to help prevent successful maritime terrorist incidents. The intended effect is to designate a Security Authority for each of the Listed Ports which will be responsible for the preparation and implementation of security plans, based on the findings of security assessments at each of the Listed Ports, along with co-ordinating security within each Listed Port.</p>								
<p>Questions - Indicate Yes, No or Not Known for each group</p>	<p>Age</p>	<p>Disability</p>	<p>Gender</p>	<p>Ethnicity and race</p>	<p>Religion or Belief</p>	<p>Sexual Orientation</p>	<p>Transgender</p>	<p>Pregnancy and Maternity</p>
<p>Is there any indication or evidence that different groups have different needs, experiences, issues or priorities in relation to the particular policy?</p>	No	No	No	No	No	No	No	No
<p>Is there potential for, or evidence that, this policy may adversely affect equality of opportunity for all and may harm good relations between different groups?</p>	No	No	No	No	No	No	No	No
<p>Is there any potential for, or evidence that, any part of the proposed policy could discriminate, directly or indirectly? (Consider those who implement it on a day to day basis)?</p>	No	No	No	No	No	No	No	No
<p>Is there any stakeholder (staff, public, unions) concern in the policy area about actual, perceived or potential discrimination against a particular group(s)?</p>	No	No	No	No	No	No	No	No
<p>Is there an opportunity to better promote equality of opportunity or better community relations by altering the policy or working with other government departments or the wider community?</p>	No	No	No	No	No	No	No	No
<p>Is there any evidence or indication of higher or lower uptake by different groups?</p>	No	No	No	No	No	No	No	No
<p>Are there physical or social barriers to participation/access (e.g. language, format, physical access/proximity)?</p>	No	No	No	No	No	No	No	No

If you have answered “no” to all the questions, an EqlA is not required.